
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

KARI GARDINER AND
CHRISTOPHER GARDINER,

Plaintiffs,

v.

ETHICON, INC.,

Defendants.

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CIVIL ACTION 1:13-CV-450

ORDER ADOPTING REPORT AND RECOMMENDATION

In accordance with 28 U.S.C. § 636(b), the Local Rules for the United States District Court for the Eastern District of Texas, the District Court referred this matter to the undersigned United States Magistrate Judge for entry of recommended disposition. On February 28, 2020, Judge Giblin entered his report and recommendation (#17) recommending that the District Court grant Defendants Coloplast Corp. and Mentor Worldwide LLC's joint motion to dismiss and stay proceedings. (#14). In his report and recommendation, Judge Giblin further recommended that the District Court *sua sponte* dismiss Plaintiffs' claims against the remaining defendants, with prejudice. To date, the parties have not filed objections to the report. Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court conducted a *de novo* review of the magistrate judge's report and the record in this cause. The record demonstrates that Plaintiffs have not appeared since 2013, when they originally filed the Complaint. Moreover, Plaintiffs have not updated their address since filing the Complaint, thus leaving the Defendants and the Court with no way to resolve the case other than dismissal. *See* Dkt. Nos. (18, 19) (stating that certified mail to Plaintiffs was returned as undeliverable). Lastly, in light of the Plaintiffs'

extreme inaction, dismissing the Complaint, with prejudice, is appropriate in this case. The Court agrees with the Magistrate Judge's findings and conclusions and adopts Judge Giblin's report as the findings and conclusions of the Court.

The Court therefore **ORDERS** that Judge Giblin's Report and Recommendation (#17) is **ADOPTED** and the motion to dismiss claims against Defendants Coloplast Corporation and Mentor Worldwide, LLC (#14) is **GRANTED**. Additionally, the Court *sua sponte* **ORDERS** that all claims against remaining Defendants C.R. Bard, Inc., Sofradim Production SAS, and Boston Scientific Corporation are **DISMISSED**. The Court further **ORDERS** that all pending motions are **TERMINATED** as **MOOT** (#12, 14). Finally, pursuant to Judge Giblin's recommendation, it is **ORDERED** that the Plaintiff's Complaint is dismissed, with prejudice. This case is **CLOSED**, and this constitutes a final judgment for appeal purposes.

SIGNED at Beaumont, Texas, this 27th day of March, 2020.

A handwritten signature in cursive script, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE